

\_\_\_\_\_ BILL NO. \_\_\_\_\_

INTRODUCED BY \_\_\_\_\_  
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE CURRENT PENALTY FOR A SECOND OFFENSE OF DRIVING UNDER THE INFLUENCE FROM FORFEITURE OF THE VEHICLE TO IMPOUNDMENT OF THE VEHICLE; PROVIDING THAT UPON CONVICTION OF A THIRD OFFENSE, A VEHICLE IS SUBJECT TO FORFEITURE OR APPLICATION OF AN IGNITION INTERLOCK DEVICE; AND AMENDING SECTIONS 61-8-442 AND 61-8-733, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 61-8-442, MCA, is amended to read:

**"61-8-442. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- ignition interlock device.** (1) In addition to the punishments provided in 61-8-714 and 61-8-722, regardless of disposition and if a probationary license is recommended by the court, the court may, for a person convicted of a first offense under 61-8-401 or 61-8-406, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the probationary period and require the person to pay the reasonable cost of leasing, installing, and maintaining the device.

(2) If a person is convicted of a second or subsequent violation of 61-8-401 or 61-8-406, in addition to the punishments provided in 61-8-714 and 61-8-722, regardless of disposition, the court shall order that each motor vehicle owned by the person at the time of the offense be either:

(a) seized and ~~subjected to the forfeiture procedure provided under 61-8-421~~ impounded pursuant to 61-8-733; or

(b) during the 12-month period beginning with the end of the period of driver's license revocation, equipped with a functioning ignition interlock device and require the person to pay the reasonable cost of leasing, installing, and maintaining the device.

(3) If a person is convicted of a third or subsequent violation of 61-8-401 or 61-8-406, the court shall apply the penalties provided for in 61-8-733(4).

~~(3)~~(4) Any restriction imposed under this section must be included in a report of the conviction made by the court to the department in accordance with 61-11-101 and placed upon the person's driving record maintained

1 by the department in accordance with 61-11-102.

2 ~~(4)~~(5) The duration of a restriction imposed under this section must be monitored by the department."

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4 **Section 2.** Section 61-8-733, MCA, is amended to read:

5 **"61-8-733. Driving under influence of alcohol or drugs -- driving with excessive alcohol**  
6 **concentration -- second and third offense -- impoundment and forfeiture of vehicle.** (1) On the second or  
7 subsequent conviction of a violation of 61-8-401 or 61-8-406 or a second or subsequent conviction under  
8 61-5-212 when the reason for the suspension or revocation was that the person was convicted of a violation of  
9 61-8-401 or 61-8-406 or a similar offense under the laws of any other state or the suspension was under 61-8-402  
10 or 61-8-409 or a similar law of any other state for refusal to take a test for alcohol or drugs requested by a peace  
11 officer who believed that the person might be driving under the influence, the court, in addition to the punishments  
12 provided in 61-5-212, 61-8-714, and 61-8-722 and any other penalty imposed by law, shall order that each motor  
13 vehicle owned by the person at the time of the offense be either seized and ~~subjected to the procedure provided~~  
14 ~~under 61-8-421~~ impounded or equipped with an ignition interlock device as provided under 61-8-442.

15 (2) A vehicle used by a person as a common carrier in the transaction of business as a common carrier  
16 is not subject to forfeiture or impoundment unless it appears that the owner or other person in charge of the  
17 vehicle consented to or was privy to the violation. A vehicle may not be forfeited or impounded under this section  
18 for any act or omission established by the owner to have been committed or omitted by a person other than the  
19 owner while the vehicle was unlawfully in the possession of a person other than the owner in violation of the  
20 criminal laws of this state or the United States.

21 (3) Upon completion of the sentence imposed, a vehicle impounded pursuant to this section must be  
22 returned to its owner and a vehicle equipped with an ignition interlock device must have the ignition interlock  
23 device removed. As a condition for completion of a sentence imposed pursuant to this section, the owner of the  
24 vehicle shall pay costs incurred for impoundment or the leasing, installation, maintenance, and removal of an  
25 ignition interlock device.

26 (4) On a third or subsequent offense of the identical provisions and under the identical circumstances  
27 described in subsection (1), the court shall apply the identical penalties provided in subsection (1), except that  
28 the court shall order each vehicle to be either subjected to the forfeiture procedure provided in 61-8-421 or  
29 equipped with an ignition interlock device.

30 ~~(3)~~(5) Forfeiture of a vehicle encumbered by a security interest is subject to the secured person's interest

1 if the person did not know and could not have reasonably known of the unlawful possession, use, or other act  
2 on which the forfeiture is sought."

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